

REMARKS

In the outstanding Office Action, the Examiner required that Applicants elect for prosecution one of the sequences among Sequence ID NOS 1-33 and 41-44.

In response, Applicants hereby elect to prosecute the invention of SEQ ID NO:7. However, Applicants wish to note MPEP §803.04, which states that

Absent evidence to the contrary, each such nucleotide sequence is pressured to represent an independent and distinct invention, subject to a restriction requirement pursuant to 35 U.S.C. §121 and 37 C.F.R. § 1.141 et seq. Nevertheless, to further aid the biotechnology industry in protecting its intellectual property without creating an undue burden on the Office, the Commissioner has decided sua sponte to partially waive the requirements of 37 C.F.R. §1.141 et seq. and permit a reasonable number of nucleotides sequences to be claimed in a single application. See Examination of Patent Applications Containing Nucleotide Sequences, 1192 OG 68 (November 19, 1996).

It has been determined that normally ten sequences constitute a reasonable number of examination purposes. Accordingly, in most cases, up to ten independent an distinct nucleotide sequences will be examined in a single application without restriction.

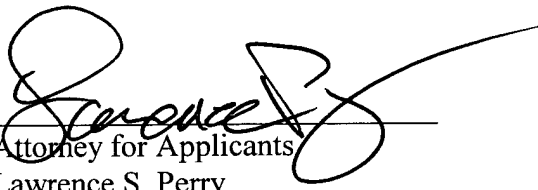
Accordingly, since the sequences of the pending claims are not “exceptional” or present a “complex nature... for example a protein amino acid sequence reciting three dimensional folds”, Applicants respectfully requests the opportunity to elect

nine additional sequences and obtain rejoinder thereof. Clarification is respectfully requested.

Entry hereof is earnestly solicited.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,


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